

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EDWIN KOHR,

Plaintiff,

v.

SUPERINTENDENT RIVELLO, *et al.*,

Defendants.

No. 4:24-CV-01336

(Chief Judge Brann)

ORDER

OCTOBER 8, 2024

AND NOW, upon consideration of Plaintiff's complaint pursuant to 42 U.S.C. § 1983,¹ motion for leave to proceed *in forma pauperis*,² and Prisoner Trust Fund Account Statement,³ **IT IS HEREBY ORDERED** that:

1. Plaintiff's motion (Doc. 6) for leave to proceed *in forma pauperis* is **GRANTED** to the extent that the case may proceed without the prepayment of the entire \$350.00 filing fee. However, Plaintiff shall pay **\$35.10** as an initial partial filing fee as required under 28 U.S.C. § 1915(b)(1)(A).⁴
2. Within **thirty (30) days of the date of this Order**, pursuant to 28 U.S.C. § 1915(b)(1), the agency having custody of Plaintiff shall forward the above-referenced initial partial filing fee to the Clerk of the United States District Court for the Middle District of

¹ Doc. 1.

² Doc. 6.

³ Doc. 8.

⁴ According to Plaintiff's trust fund account statement, the average amount deposited monthly into his prisoner trust fund account during the six-month period preceding the filing of his complaint was \$175.51. *See* Doc. 8 at 1-2. Twenty percent of that amount is \$35.10. *See* 28 U.S.C. § 1915(b)(1)(A) (explaining the calculation of the initial partial filing fee).

Pennsylvania, P.O. Box 1148, Scranton, Pennsylvania, 18501-1148, to be credited to the above-captioned docket number. The payment must include (1) the full name of the prisoner or detainee, (2) the prisoner's or detainee's inmate number, and (3) the docket number for this action.

3. Pursuant to 28 U.S.C. § 1915(b)(2), **in each succeeding month**, when the amount in Plaintiff's inmate trust fund account exceeds \$10.00, the Superintendent, Warden, or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Plaintiff's inmate trust fund account until the filing fee is paid in full. Each payment must include (1) the full name of the prisoner or detainee, (2) the prisoner's or detainee's inmate number, and (3) the docket number for this action. **The agency shall forward payments to the appropriate court(s) simultaneously if there are multiple orders existing due to multiple cases filed by Plaintiff.**
4. The Clerk of Court is directed to **FORWARD** a copy of this Order and Plaintiff's authorization form to the Superintendent/Warden of the institution wherein Plaintiff is presently confined, as well as to the Inmate Account Officer of that institution.
5. This Order is binding on the Superintendent/Warden of any jail or correctional facility where Plaintiff is incarcerated until the filing fee is paid in full in accordance with 28 U.S.C. § 1915(b)(1). However, Plaintiff is warned that he/she is ultimately responsible for payment of the filing fee if the custodian lapses in their duty to make payments on his/her behalf. For this reason, if Plaintiff is transferred to another jail or correctional institution, Plaintiff **must** ensure that the new institution is informed about this lawsuit and the required monthly payments as set out herein. Plaintiff is advised to retain a copy of this Order for this purpose.
6. The complaint is **DEEMED** filed.
7. Plaintiff's complaint is **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief may be granted.

8. Within **21 days** of the date of this Order, Plaintiff, if desired, may file an amended complaint in accordance with the accompanying Memorandum.
9. If an amended complaint is not timely filed, dismissal of Plaintiff's complaint will automatically convert to dismissal with prejudice and the Court will CLOSE this case.
10. **No further action** shall be taken in this case unless and until the initial partial filing fee set forth in paragraph 1 above is received by the Court. Plaintiff is admonished that this case may be dismissed for failure to prosecute if the initial partial filing fee is not received within **thirty (30) days** from the date of this Order.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge